

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Trustees of the
OPERATING ENGINEERS LOCAL 324 HEALTH
CARE PLAN, the OPERATING ENGINEERS LOCAL
324 PENSION FUND, the OPERATING ENGINEERS
LOCAL 324 RETIREE BENEFIT FUND, the
OPERATING ENGINEERS LOCAL 324 VACATION
FUND, the OPERATING ENGINEERS LOCAL 324
SUPPLEMENTAL VACATION FUND, the
OPERATING ENGINEERS LOCAL 324
APPRENTICESHIP FUND, the OPERATING
ENGINEERS LOCAL 324 INDUSTRY
ADVANCEMENT FUND, the OPERATING
ENGINEERS LOCAL 324 LABOR MANAGEMENT
FUND, and the OPERATING ENGINEERS LOCAL
324 DEFINED CONTRIBUTION PENSION PLAN,

Plaintiffs,

Case No. 20-cv-10042

v.

Hon. Robert H. Cleland

ALPHA ELECTRIC & ENGINEERING, L.L.C.,
and BRIAN ABBOTT, Individually,

Defendants.

**EX-PARTE ORDER (i) DISMISSING CASE WITHOUT
PREJUDICE, AND (ii) SETTING PROCEDURES FOR
RE-OPENING OF CASE AND ENTRY OF JUDGMENT**

Defendants have not answered or otherwise responded to the Complaint;
Plaintiffs, corporate Defendant ALPHA ELECTRIC & ENGINEERING, L.L.C.,
and individual Defendant BRIAN ABBOTT, have entered into a settlement

agreement regarding the claims of the Plaintiffs (the “Settlement Agreement”) which provides and which Defendants have consented to, among other things, for the dismissal of the case without prejudice, and for the re-opening of same and entry of a judgment against Defendants in the event of a Default under the Settlement Agreement upon the filing by Plaintiffs of an Affidavit of Default and after the filing by Plaintiffs of a Motion for Entry of Order Re-Opening Case and Entry of Judgment, with notice and a hearing thereon; Plaintiffs have filed with this Court concurrently herewith a Notice of Conditional Dismissal Without Prejudice subject and conditioned in all respects, however, to entry of this Order; and the Court, after having been fully advised of the terms of such agreement;

IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. This case is dismissed without prejudice and without costs or attorney’s fees to either party and shall be administratively closed.
2. Upon the occurrence of a Default under the Settlement Agreement, Plaintiffs shall file with this Court and serve on Defendants (a) Notice of Re-Opening Case, (b) an Affidavit of Default under Settlement Agreement, and, (c) a Motion for entry of an Order Re-Opening Case and Entry of Judgment to enforce the terms of the Settlement Agreement which shall include a credit for any payments which have been made under the Settlement Agreement and an award of statutory prejudgment interest, costs and attorneys’ fees.

3. This Court shall retain jurisdiction over this matter for purposes of enforcing the Settlement Agreement and the matters set forth in the preceding paragraph.

s/Robert H. Cleland
UNITED STATES DISTRICT JUDGE

DATED: July 7, 2020